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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/545,524	04/07/2000	Seth Haberman	08313808.12401	9763
545	7590	08/19/2008		
IP Patent Docketing K&L GATES LLP 599 Lexington Avenue 33rd Floor New York, NY 10022-6030			EXAMINER BORISSOV, IGOR N	
			ART UNIT 3628	PAPER NUMBER
			MAIL DATE 08/19/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

09/545,524

Applicant(s)

HABERMAN ET AL.

Examiner

Igor N. Borissov

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 13-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date: \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

Amendment received on 05/21/2008 is acknowledged and entered. Claims 1-12 have been canceled. New claims 13-34 have been added. Claims 13-34 are currently pending in the application.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 13-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Foresman et al. (US 5,099,422).**

Foresman et al. teaches a method and system for distributing a customized video commercial, said method comprising:

Claims 13-34:

(i) receiving from an advertiser a request to create a customized video commercial, said request comprising (a) a target audience to whom said customized video commercial is to be distributed and (b) a sample video commercial comprising a plurality of sample video segments and a plurality of sample audio segments, wherein said sample video commercial has an advertising message (C. 7, L. 15-28);

(ii) generating a video commercial template in response to receiving said request, said video commercial template comprising (a) a plurality of tillable video segment slots, each tillable video segment slot arranged at a specific time point within said video commercial template and (b) a plurality of tillable audio segment slots, each tillable

audio segment slot arranged at a specific time point within said video commercial template (generated sequence indicates the template);

(iii) storing in a resource library (a) a plurality of video segments, each video segment forming a portion of a complete video commercial and (b) a plurality of audio segments, each audio segment forming a portion of a complete video commercial (C. 4, L. 25-37);

(iv) defining one or more rules for filling said plurality of tillable video segment slots with said video segments and for filling said plurality of tillable audio segment slots with said audio segments based on characteristics regarding said target audience (C. 6, L. 25-27; C. 7, L. 42-45);

(v) acquiring characteristics regarding said target audience from one or more sources (C. 6, L. 35-54);

(vi) filling said tillable video segment slots with said video segments and said tillable audio segment slots with said audio segments based on said defined rules and said acquired characteristics to create said customized video commercial (C. 6, L. 20-33; C. 5, L. 3-14);

(vii) distributing said customized video commercial to said target audience, wherein said customized video commercial has at least one video segment or audio segment that is different from said sample video segment or sample audio segment, and wherein said customized video commercial has at least one video segment or audio segment that is same as at least one of said sample video segment or sample audio segment (C. 8, Table B, Segment Presentation/Sequencing, Same Sequence for All).

### ***Response to Arguments***

Applicant's arguments with respect to new claims 13-34 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Igor Borissov whose telephone number is 571-272-6801. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Igor N. Borissov/  
Primary Examiner, Art Unit 3628